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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF FREEDOM OF EXPRESSION

Report of Mr. Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Report on the mission to Tunisia

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Introduction

1. This report has been prepared in accordance with Commission on Human Rights resolution 1999/36 of 26 April 1999. Mr. Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, presents and analyses information collected during his mission to Tunisia from 6 to 10 December 1999, and information provided by individuals and non-governmental organizations (NGOs) on alleged violations of the right to freedom of opinion and expression.

2. By letter of 4 December 1997 addressed to the Permanent Mission of Tunisia to the United Nations Office at Geneva, the Special Rapporteur, together with the Special Rapporteur on the independence of judges and lawyers, requested permission to visit Tunisia. On 21 June 1999, the Government of Tunisia gave its agreement to the visit of the Special Rapporteur on freedom of opinion and expression.

3. The Special Rapporteur wishes to thank the Tunisian Government for the cooperation extended to him in the exercise of his mandate. He wishes especially to express his appreciation to the Minister for Foreign Affairs and his staff, who contributed to the success of his mission. He also thanks the Resident Representative and staff of the United Nations Development Programme in Tunis for their efficiency in organizing the visit.

4. The Special Rapporteur met representatives of the Government, members of Parliament and members of the judiciary. He also held talks with representatives of NGOs working in the field of human rights, writers, media professionals, witnesses to or victims of alleged human rights violations, and other members of civil society concerned by his mandate.

5. A list of people the Special Rapporteur met is contained in the annex to this report. It should be noted that the list is not exhaustive, as he had the opportunity to meet with many other people during his visit. He wishes to thank everyone he met for their generous assistance.

6. It may be mentioned that the Special Rapporteur could not visit any of the prisoners held in 9th April prison in Tunis as he had not received an official reply from the Government to his request in that regard. It should, however, be recorded that, at very short notice, the Government permitted the Special Rapporteur to visit Mohammed Mouadda, who was under house arrest and police surveillance. The Special Rapporteur was able to talk to him freely for an hour and a half. His subsequent release from house arrest enhances the belief that the frontiers of freedom in Tunisia may be expected to expand well beyond what may be currently expected.

I. GENERAL OBSERVATIONS AND LEGAL FRAMEWORK

A. General observations

7. Since it gained independence in 1954, Tunisia has undertaken wide-ranging reforms to modernize its economy, consolidate social progress and give priority to education. Forty-five years later, the outcome is very positive. Tunisia stands out in the region for its

political and economic stability, and for its success in the area of women's liberation and in combating poverty. It is developing some credible programmes, such as the 26 26 Solidarity Fund in pursuit of the social and economic progress of its people.

8. A further success for Tunisia is its status as an associate member of the European Union, pursuant to the agreement signed on 17 July 1995 that entered into force on 1 March 1998. Under the terms of article 2 of this agreement, which provides for the gradual lowering of customs barriers between the two parties, Tunisia has clearly committed itself to respecting the commonly accepted democratic principles and human rights.

9. Nevertheless, there is a growing criticism from certain quarters that, despite commitments to reform the Press Code, made by President Zine El Abidine Ben Ali in his speeches on 10 October and 15 November 1999, the most basic rights relating to the effective enjoyment of freedom of opinion and expression are continually being curtailed. It is contended that while, on the one hand, the State is supporting the idea of promoting and guaranteeing human rights, on the other hand, it is tampering with human rights under the pretext of maintaining stability and order in society. While it should not be assumed that the establishment of a liberal order based on freedom of expression and opinion is a simple matter for a developing country, it is the view of the Special Rapporteur that, for a country like Tunisia, which has reached a certain level of social development, it should not be difficult to handle the conflicting demands of stability and freedom in a more liberal fashion.

10. Tunisia has, however, ratified a number of international human rights conventions and has taken certain steps that show a real political desire for change. Thus, human rights education has been introduced in primary, secondary and university courses, and in training programmes for junior and senior magistrates, and journalists. In recent years, specialized human rights departments have also been set up in the main Tunisian ministries (foreign affairs, justice and the interior). Another step forward was taken recently with the abolition of the Ministry of Information in October 1997 and the creation of a ministry devoted entirely to human rights, communications and relations with Parliament.

B. Legal framework

11. In this section, the Special Rapporteur will briefly examine certain aspects of the international and national legal framework governing the protection of the right to freedom of opinion and expression in Tunisia.

1. International obligations

12. Tunisia has assumed a whole range of obligations deriving from international instruments in the area of human rights, notably those contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, and the International Covenant on Economic, Social and Cultural Rights. On the other hand, although Tunisia is a party to the International Covenant on Civil and Political Rights, it has not ratified the two optional protocols to the Covenant, the first relating to the right of individuals to submit

complaints to the Human Rights Committee and the second aiming at the abolition of the death penalty. Tunisia has also ratified the African Charter on Human and Peoples' Rights, by the Act of 6 August 1982, which guarantees that "every person has the right to information" (art. 9).

13. Under article 32 of the Constitution, international conventions that have been duly ratified are granted legal precedence over domestic laws. As a result of this principle, in cases where there is a contradiction between a treaty and domestic legislation, the treaty has the force of law. Likewise, treaties may be applied directly in domestic legislation by the magistrates and authorities responsible for their application.

2. Domestic legislation

(a) The Constitution

14. Article 8 of the Constitution of 1 June 1959 provides that "the freedoms of opinion, expression, the press, publication, assembly and association are guaranteed and exercised under the conditions laid down by the law". According to the same article, political parties must respect human rights and should not base their principles, objectives, activities or programmes on considerations of religion, language, race, sex or region.

15. The Constitutional Council was established by decree of 16 December 1987, and its powers were subsequently included in chapter IX of the Constitution in 1995. This body is responsible for ensuring the constitutionality of the laws, and since 1998 its opinions have been invokable against all the powers and all public authorities. Referral to the Council is compulsory for all bills concerning citizens' rights and fundamental freedoms. However, the Council remains an advisory body that can only be invoked by the Head of State, to the exclusion of other governmental or parliamentary bodies or Tunisian citizens.

(b) Legislation governing the press and other media

16. Under the provisions of article 49 of the Press Code, promulgated by the Act of 28 April 1975, the publication, dissemination or reproduction of false information liable to disturb public order is punishable by a fine and prison sentence of between two months and three years. Under article 51, defamation is punishable by a prison term of between one month and three years and a fine. The Press Code has been amended twice, in 1988 and 1993. These amendments mainly concerned the provisions on registration of copyright, and article 1 now guarantees "the freedom of the press, publishing, printing, distribution and sale of books and publications", thereby extending the scope of the Code. In its new article 44, the punishment laid down for incitement to racial hatred is applicable to anyone propagating views based on racial segregation or religious extremism.

17. The status of the foreign press is also defined in the Press Code, in articles 24 and 25. Accordingly, "the publication, introduction and circulation in Tunisia of foreign works, whether or not they are periodicals, may be prohibited by decision of the Ministry of the Interior, on the advice of the Secretary of State responsible to the Prime Minister for information".

18. The High-Level Communications Council, set up on 30 January 1989, is a 15-member advisory body that reports to the Office of the President of the Republic and is responsible for studying and proposing measures to help develop general communications policy. However, it is not open to referrals from professionals in this field or the general public.

(c) Other laws and institutions that have a direct impact on the exercise of the right to freedom of opinion and expression

19. An Act promulgated on 3 May 1988 regulates political parties, which may not be set up until they have been granted authorization by order of the Ministry of the Interior. The Ministry's decisions are open to appeal through the courts. In addition, a law on the funding of political parties, passed on 21 July 1997, makes provision for subsidies to be granted only to the political parties represented in the Chamber of Deputies or if deputies join these parties at a later date.

20. The Associations Act of 7 November 1959 has been the subject of two amendments, one of which opens the way to judicial appeals against decisions of the Minister of the Interior in respect of the establishment and dissolution of an association. Under the Act, a request for approval, for which a receipt is given, must be submitted to the Governor's Office before setting up an association. The Ministry of the Interior has three months in which it can decide to turn down the application to set up the association.

21. The establishment and functioning of trade unions are governed by the 1966 Labour Code, which does not require them to seek any prior authorization.

22. The High-Level Committee on Human Rights and Fundamental Freedoms is an important body set up in 1991 to protect and guarantee human rights at the national level. As an advisory body to the Office of the President of the Republic and with members appointed by presidential decree, it assists the President by giving advice on human rights issues and carrying out studies in that area. It can also receive complaints by individuals on violations in the area of human rights.

II. MAIN FINDINGS AND CONCERNS

A. The media

1. The print media

23. At the moment, there are about 180 national periodicals in Arabic, French or both languages, and eight specialized political publications. At first sight, the Tunisian press appears to be diversified, with the private press and party publications coexisting alongside the official media. Alongside the pro-government dailies *La Presse de Tunisie* and *Essafah* and the two publications of the governing party *El Horrya* and *Le Renouveau*, there are three privately-owned dailies: *Essabah* ("The Morning"), *Le Temps* and *Echourouk* ("The Dawn"). The private press also includes 10 or so weeklies.

24. Despite this diversity, the Special Rapporteur observed that the Tunisian press is characterized by uniformity of tone, unfailingly presenting national news in a positive light. It hesitates to criticize government policy and rarely prints news or analyses of subjects unpalatable to the Government, such as transgression of human rights, that might sully Tunisia's image. In the light of the allegations received, the Special Rapporteur wishes to draw attention to certain points which, in his view, raise concerns about the exercise of the right to freedom of opinion and expression.

(a) Single source of information

25. The Special Rapporteur was told that the Tunis Afrique Presse (TAP) news agency, a State-owned enterprise, has a monopoly on large areas of national news. The agency reportedly transmits the main official news to the media and filters out subjects which are taboo.

(b) Newspaper financing and advertising

26. The room for manoeuvre of privately-owned Tunisian newspapers depends largely on advertising income. The Tunisian External Communications Agency (ATCE), which was set up by the State, has to give its approval not only for the distribution of foreign advertising income in Tunisia, but also for advertisements placed by ministries and State enterprises in the national press. The Special Rapporteur was told that the allocation of these advertisements by the ATCE was made selectively and was a way to induce newspapers to be less critical of the Government.

(c) Government censorship/self-censorship

27. The Special Rapporteur notes that Tunisian legislation does not provide for any form of official censorship but, in practice, different kinds of inducements and pressure, of varying intensity, are reportedly brought to bear on journalists to encourage them to write articles in line with government policy, amounting to a subtle form of orientation. These pressures can, for example, take the form of a telephone call to a newspaper editor to ensure that a certain slant is given to news and analysis. Politically sensitive articles have to be sent to the Ministry of the Interior for clearance. However, journalists often anticipate instructions, so that self-censorship is common among editorial staff.

28. These forms of intervention in fact filter articles and writings which deal with a subject in personal terms and which might be unflattering to the Government. The subjects concerned are not only political but also cultural. For example, the famous composer Mohamed Guerfi was sued for libel by the Ministry of Culture for criticizing, in an article in the daily *Essabah* in the summer of 1998, cultural policy and the waste of public money.

29. It is alleged that pressures on some journalists have taken a harsher form. For example, Mr. Taoufik Ben Brik, a correspondent for the French newspaper *La Croix*, has for several years been subjected to various kinds of pressure: he has received anonymous telephone threats, his telephone and fax lines have been cut, he has been kept under police surveillance, his car has been vandalized, he has been subjected to insults and pressure during interrogation at the Ministry of the Interior, and his family has been harassed, among other things. It is also alleged that, on 20 May 1999, he was attacked and violently beaten in the street by police officers in

plain clothes. Mr. Ben Brik is one of the few journalists based in Tunisia writing articles for publication in France and Switzerland that criticize the political situation in Tunisia and, in particular, breaches of freedom of opinion and expression.

30. The case of Ms. Sihem Bensédrine, a publisher and human rights activist, was also brought to the attention of the Special Rapporteur. It is alleged that, in addition to the various forms of harassment to which she has been subjected in the last few years (defamation of character through the circulation of an album of retouched photographs, sabotage of her car, constant police surveillance), the office of her Aloès publishing house was broken into twice in December 1999 by individuals thought to be members of the political police, and all its computer equipment was removed.

31. The Special Rapporteur was told that the harsh measures taken against journalists had their origins in the 1990 decision to tame religious terrorism and reached their peak in 1991 and 1992. Before that, the press is said to have enjoyed greater freedom and two newspapers of the unofficial opposition were even permitted to publish: they were *Al-Fajr*, the unofficial mouthpiece of the Islamic Ennahda movement, and *Al-Badil*, the paper of the Tunisian Workers' Communist Party (POCT, of the extreme left). These two newspapers have been banned since the sentencing of their two editors-in-chief. Other independent newspapers, such as *Le Phare*, *Al-Rai* and *Le Maghreb*, have also ceased publication.

32. Two journalists of the Islamic faith are still (since 1992) in prison for an "Islamic plot". Hamadi Jebali, editor of the weekly *Al-Fajr*, the unofficial organ of the Islamic Ennahda movement, and Abdellah Zouari, who also worked on *Al-Fajr*, were sentenced to 16 and 11 years' imprisonment respectively. When questioned about these two cases during a meeting with the Special Rapporteur, sources close to the Government said that the two journalists had been sentenced for belonging to a terrorist organization and for taking part in acts of violence. The State, in their view, had to take action to overcome the trauma of religious fanaticism. However, according to information sent to the Special Rapporteur, no evidence of that had been presented at the trial of the two men, leaving the impression that they had been imprisoned solely for their work on *Al-Fajr*. In fact, at the time of sentencing, Mr. Jebali had just served a one-year prison sentence for publishing an article criticizing the system of military courts.

(d) Restrictive press code

33. The Special Rapporteur is convinced that the present Press Code is prohibitive in that it helps to maintain censorship and self-censorship in the editorial offices of Tunisian newspapers. President Ben Ali himself, in speeches in October and November 1999, said he believed that the Press Code needed to be reformed in order to "curb the self-censorship reflex", and undertook to ensure that such a reform would shortly be submitted to the Chamber of Deputies. The Tunisian officials with whom the Special Rapporteur met, and particularly the Minister of Justice, were all in favour of this reform, particularly the amendment to the article on defamation. They were also committed to holding wide-ranging consultations with all the sectors concerned (journalists, intellectuals, media experts and academics). In this regard the Special Rapporteur maintains that problems should be thought through lest the opposite of what is being sought is achieved.

34. According to the Special Rapporteur, the main weaknesses and shortcomings of the 1975 Press Code are to be found in article 13, which requires a declaration to be lodged with the Ministry of the Interior before publication of any periodical. In return, the publisher receives a receipt, without which the periodical may not go to press. The Special Rapporteur was informed of many cases of declarations submitted to the Ministry of the Interior for which no receipt was received. Consequently, the person submitting the declaration has no proof of either its submission or its rejection, and would find it difficult to take the Government to court. The publisher Ms. Sihem Bensedrine claims that she submitted a declaration for the publication of the periodical *Kalima* ("the Word") to the Ministry of the Interior on 16 November 1999 but was refused a receipt, and was not even allowed to sign a release form. There is no remedy open to her as she has nothing in writing that would allow her to take legal action. Some of these legitimate concerns should be given serious consideration.

35. The Special Rapporteur also noted with concern that chapter IV of the Press Code, on "Offences committed by means of the press or any other publication medium", was imprecise in its definition of the elements that constituted these offences, thus opening the way for broad or even wrongful interpretations. Article 49, for example, which makes provision for the offence of publishing false information liable to disturb public order, offers no definition of "public order", even though the prison sentence incurred, which is the same as for defamation, can be as high as three years. Insulting the President of the Republic is punishable by up to five years' imprisonment.

36. According to the information received, these elements taken together are partly to blame for the total absence of investigative journalism, and for causing readers to doubt the credibility of the Tunisian press and to induce them to turn to the foreign press. Around 800 different newspapers and magazines from outside Tunisia's borders are available, but the Special Rapporteur was told that few foreign correspondents had stayed in Tunis because of the pressure exerted on them. The distribution of foreign publications is entirely at the discretion of the Ministry of the Interior. As the law cites no cases or reasons that would justify banning the distribution of foreign publications, the Minister has discretion in that area and is not obliged to explain his decisions. Thus, the French daily *La Croix* is completely banned, and the French dailies *Le Monde* and *Liberation* have been seized on several occasions.

37. At the time of the mission, *Le Monde* could not be found on any news-stands, and some sources claimed that that newspaper had not been distributed in Tunisia since 21 October 1999 because it had carried "damaging" articles during the presidential elections. The reason given by the authorities for suspending distribution of these newspapers is that *Le Monde* and the other newspapers concerned had published articles that indiscriminately attacked the Government and would not allow them a right of reply or would publish a distorted version of the reply. The administration seems to operate on the premise that, in certain situations, proxy interventions by other countries through the media have to be held in check rather than values defended. However, the caveat of this being a double-edged sword should not be ignored by the authorities.

2. Freedom of the press and publication

38. In theory, there are no constraints on this freedom as no prior authorization is required. However, according to information sent to the Special Rapporteur, the provision on registration

of copyright in chapter I of the Press Code is usually used to block all undesirable publications. Under the Code, all magazines, books and plates must be registered for copyright by depositing a number of copies of the publication with the Ministry of the Interior before any are distributed. Theoretically, the relevant branch is required to issue a receipt, but it is alleged that in practice this is often not done. In this way, publications can be held up at the printer's for weeks, months or even years, hurting the prospect of circulation and making publishers pay the price for ambivalence.

39. Likewise, certain bodies reportedly contribute to the restrictions on the freedom of the press and publication: one of these is the "reading commission", a body based in the National Library but whose membership and management are determined directly by the Ministry of the Interior. It intervenes whenever a book or any other reading matter aimed at the general public is published. In addition, the "purchasing commission", which is part of the Ministry of Culture although its management and decisions are the direct responsibility of the Ministry of the Interior, meets twice a year and reviews all handbooks and publications deposited by Tunisian publishers. It then decides which publications will receive the State subsidies intended to encourage Tunisian publishers. Decisions become arbitrary, depending on whether or not the writings are congenial to the regime. At this point, prudence turns into self-serving selectivity.

40. A list of censored books given to the Special Rapporteur includes not only collections of poetry and stories like *Wa qadari an arhal* ("My destiny is to leave") by Fadhel Sassi, but also more political books such as *Fil Tawajjuh al democrati* ("Towards democracy and national reconciliation") by Aderahmane Abid or *Islam et liberté* ("Islam and freedom") by Mohamed Charfi, a former Minister of Education (this book is published in France but banned in Tunisia). Thus, censorship affects a whole range of books and publications: the Arab Institute for Human Rights, an organization based in Tunis and supported by the Office of the United Nations High Commissioner for Human Rights and whose mission is to promote human rights in the Arab region, has had some of its publications censored, including *Er-Rassed*,[1] which was seized by the Ministry of the Interior a year ago.

41. The Special Rapporteur is particularly concerned about these impediments to freedom of the press and publication, which tend to stifle creativity and intellectual activity in general. These incremental challenges, if not resisted in time, could lead inexorably to more critical challenges. Under these circumstances, it is encouraging to note the recent presidential pronouncements which have expressed a keenness to allow more liberty to the media without curtailing the Government's efforts to prevent fundamentalism from joining forces with terrorism, which could wreck a society in the course of modernization.

3. The broadcasting media and new technologies

42. The broadcasting media are characterized by strong State influence on their method of operation and programmes. The Tunisian Radio and Television Broadcasting Establishment (ERTT), which was set up by an Act of 7 May 1990, is financed essentially by State subsidies, advertising revenue and fees. The first inroads into this public monopoly were made by the opening in 1992 of a private television station, Canal Horizons, launched in conjunction with the

French station Canal Plus. Two stations catering primarily for young people have also started broadcasting: Canal 21 (TV) and Canal Jeunes (radio). Similarly, five regional radio stations (Gafsa, Le Kef, Taatouine, Sfax and Monastir) have opened.

43. The Special Rapporteur was informed that previously broadcasting, like the press, had been characterized by genuine pluralism but had gradually become much more standardized. The ERTT is now said to be under the total control of the State and the party in power, despite several attempts to reflect the concerns of the public through periodic televised debates.

44. The Special Rapporteur was informed that Tunisian television viewers feel a sense of boredom, which prompts them increasingly to watch news programmes on foreign stations. Tunisians are in fact able to pick up the French and Italian television stations France 2 and Rai Uno. The Special Rapporteur's attention was drawn to the fact that France 2 had had its news programme cut for years and had subsequently been closed down completely as from 25 October 1999 following the broadcasting of critical programmes and news items during the most recent election campaign. Rai Uno broadcasts, too, have reportedly been frequently suspended for several months following criticism of Tunisian policy. It should, however, be noted that the two stations can be received without interruption via satellite. This is not a matter of decision or will, but the reality of technological development.

45. The Special Rapporteur considers that, from the technical and commercial standpoints, the new technologies have been widely adopted by Tunisia. Thus, since 1988, satellite dishes have been legalized and have rapidly grown in number. The country can boast of the fact that it has enabled its people to have a dish of couscous on their table and a satellite dish on the roof top. The Special Rapporteur nevertheless regrets that numerous restrictions are still being imposed on these new technologies, which have become indispensable for a modern State. Thus, as from 1994, the purchase of satellite dishes has been subject to prior administrative authorization from the Minister responsible for communications following approval by the president of the local community concerned.

46. It was mainly in connection with the Internet that the Special Rapporteur noted the most limitations. In 1996, the Tunisian Internet Agency (ATI) was set up with the aim of promoting the new means of communication; in 1997, it became a public operator overseeing two private companies which provide Internet access to subscribers at increasingly low prices. This has had the effect of making the Internet more accessible and cheaper, and tripling the rate of new connections since 1997. But the Special Rapporteur found that certain Internet sites were permanently blocked, in particular the e-mail sites (www.hot mail.com/www.mon courrier.com) and NGO sites such as those of Amnesty International, the Committee for the Protection of Journalists, the International Federation of Human Rights, Reporters without Borders and even the sites of French newspapers and periodicals such as *Le Monde*, *Libération* and *Le Nouvel Observateur*. Internet Users have even had policemen knocking on their doors asking why they had accessed a particular site; the sites they visit can thus be monitored and their links cut. In addition, the restrictive legislation of the Press Code in terms of responsibility for content is apparently applicable to the Internet under a decree of 22 March 1997. And the Internet operators are required to submit a list of Internet subscribers to the Government every month.

47. The Special Rapporteur was informed that a decree of 1996 made the owners of public telephone booths comprising a facsimile (fax) service criminally liable for the content of fax mail, which should not contain information contrary to public order or morality. Fax correspondence is reportedly governed by the Press Code, in particular in relation to what constitutes defamation, an offence against public order or the transmission of inaccurate news.

48. The Special Rapporteur considers that all these restrictions, and particularly those relating to the Internet, jeopardize freedom of expression and information and should be removed. Moreover, modern means of communication and information do not lend themselves to instant success. There is no automaticity about them, unless these are supported by enabling policies and suitable infrastructure to enhance their operational usage. A combination of lofty idealism and tough pragmatism could only serve the cause of freedom of expression and access to better information.

B. Other concerns relating to the promotion and observance of the right to freedom of opinion and expression

1. Absence of political pluralism

49. Officially, in Tunisia there are seven political parties, of which five are represented in the Chamber of Deputies. The party in power is the Rassemblement Constitutionnel Démocratique (RCD), presided over by Mr. Zine El Abidine Ben Ali, who spearheaded the adoption of a National Pact with the opposition. After discussions, the National Pact was ratified on 7 November 1988; it is a code of honour which unites all parties and political persuasions within common values and major principles such as nationalism, authenticity, openness and tolerance. Although it has no legal value, this Pact - which may be described as a "code of political ethics" - embodies the traditional Tunisian values, since historically, Tunisia has been a pluralist society which has always been tolerant of diversity.

50. In the course of talks with the authorities, the Special Rapporteur was frequently told that political pluralism exists in Tunisian society and that a number of recent measures bear witness to this fact. Recent reforms provide for the plurality of candidatures in presidential elections and 20 per cent of seats in parliament are now reserved for members of the opposition. In addition, an Act of 1997 relating to the public financing of parties provides for the payment of subsidies to opposition parties for electoral campaigns.

51. The Special Rapporteur now wishes to highlight a number of facts which were brought to his attention during his mission and which call for serious consideration. Although legal opposition exists in Tunisia, it is alleged that in practice it enjoys little autonomy of action vis-à-vis the power exercised by the RCD (the party in power) over the various branches of the State apparatus. Some of the people with whom the Special Rapporteur discussed this matter described the opposition as merely a kind of "shop window opposition" maintained by the RCD, which could at any time block any important initiative taken by it. The Special Rapporteur was told of the ambiguous position of opposition candidates in the recent presidential elections when, while campaigning for the presidency, they appreciated the good work being done by the President and praised his governmental programme, which in effect reduced their chances of being elected.

52. According to information furnished to the Special Rapporteur, the political parties have difficulties in organizing freely, since the Act of 1988 gives the Minister of the Interior discretion to grant or withhold approval. Thus, the Special Rapporteur was informed that an application submitted in 1994 by a group of opponents, headed by Mr. Mustapha Ben Jaffar, for the formation of a political party to be called the "Democratic Forum for Labour and Freedoms" has since been completely ignored by the Ministry, a fact which has exacerbated problems for them. Pressure has even been brought to bear on the founders of that party to give up their plan and Mr. Ben Jaffar has on several occasions been summoned to appear before an examining magistrate.

53. On the question of media coverage of the opposition parties, access to the media, and especially television, seems to be very limited. Thus, the important activities of these parties and their position on events are not adequately covered by the media. Similarly, representatives of these parties are granted only limited access to files and are rarely allowed to participate in television or radio debates. The Special Rapporteur was nevertheless informed that the Tunisian State has tried to promote media coverage of opposition parties, but no institutional or legislative measure has been taken to systematize such practices, which in fact remain dependent on the political situation. This deepens the demoralization of these parties or denies them strategic parity.

54. The Special Rapporteur's attention was also drawn to the fact that opposition newspapers exist, but in practice the lack of credibility of the opposition parties' discourse and the absence of any constructive criticism have caused their circulation to drop and put them in a difficult financial situation. Here again, the Tunisian State has taken the initiative and a decree of 10 April 1999 provides for "an annual grant of 50,000 dinars to be paid as a subsidy to the political party newspapers". They are also granted a number of benefits constituting 60 per cent of newsprint costs and receive customs exemptions, notably in respect of printing materials.

55. In the opinion of the Special Rapporteur, these measures reflect a desire to integrate the opposition parties, but they might also be counter-productive because the subsidies make their existence dependent on the patronage of the party in power, which erodes their independence and induces them to follow the government line. Moreover, according to certain reports, these measures remain at the discretion of the authorities and are dependent on their relations with the party concerned. The Special Rapporteur considers that the establishment of an independent organ responsible for assisting newspapers would be a possible solution in order to avert dependency of any kind.

56. The Special Rapporteur also wishes to draw the attention of the authorities to allegations relating to suppression of rights of political opponents in Tunisia. Thus, he was informed that a "wave of repression" had begun in 1990 and had been targeted primarily at presumed or confirmed members and supporters of Ennadah, the Islamist party. Over 9,000 people were reportedly arrested over a period of a few months in 1991 and 1992, most had been systematically tortured and over 10 deaths while in incommunicado detention had been reported at that time. Some sources informed the Special Rapporteur that many supporters of the Islamist party are at present still often imprisoned in inhuman conditions and that the relatives of such prisoners are subjected to numerous forms of harassment (loss of the wife's job, police surveillance, confiscation of passport, etc.).

57. The Special Rapporteur learned with concern that this wave of suppression of rights of political opponents had gradually extended to other political movements, such as the Tunisian Workers' Communist Party (PCOT), which is currently banned and one of whose leaders, Hamma Hammami, has been frequently imprisoned for his political activities and went into hiding in February 1998.

58. Also according to information transmitted to the Special Rapporteur, more than 1,000 political opponents of all political shades are still being held in Tunisian prisons. A positive development, however, was the announcement, on 6 November 1999 - a few weeks before the commencement of the mission - of the conditional release of several hundred prisoners, including presumed members of the Islamist party Ennadah and the PCOT. The Special Rapporteur expresses his satisfaction at this far-reaching decision and the message of hope which it conveys. He is aware of the paradox of Tunisia's contemporary situation which, on the one hand, demands restraining of fundamentalist forces and, on the other, requires the Government to grant greater freedom of action and promotion of ideas to its citizens.

59. The Special Rapporteur was also informed that the main party of the legal opposition, the Social Democrats' Movement (MDS), has also been affected by the hard line adopted by the State. Mr. Mohamed Mouadda, the former leader of the MDS, has reportedly been subjected to constant harassment for several years. He was arrested in 1995, and in 1996 he received an enforceable sentence of 11 years' imprisonment for threatening State security and colluding with agents of foreign Powers, while Mr. Khemais Chammari, the Vice-President of the MDS, was sentenced to five years' imprisonment. Mr. Chammari, who is now exiled in France, reportedly served one year's imprisonment and has been banned from any form of political activity. Thus, on the occasion of the Special Rapporteur's visit, Mr. Mouadda had been under house arrest since 17 November 1999 following a decision by the Minister of the Interior, of which he had been informed verbally by the police. Having decided to visit Mr. Mouadda, the Special Rapporteur was able to gain an understanding of the situation, and noted that the street where he lives had been effectively cordoned off by a group of policemen and that he was shut in his home without being able to communicate with the outside world, the telephone having been cut off and no one being allowed to enter the house apart from his son and his doctor. The Special Rapporteur was nevertheless able to hold a long conversation with Mr. Mouadda (one hour and a half) and learned with concern of the precarious health of Mr. Mouadda's wife.

60. The Special Rapporteur learned that a few days after his visit, on 14 December 1999, the authorities terminated Mr. Mouadda's house arrest and restored his telephone line. The Special Rapporteur welcomes this step and wishes to thank the Tunisian Government, while expressing the hope that Mr. Mouadda will henceforth be able to fully enjoy his right to express his political opinions, however divergent they may be.

2. The judiciary

61. Article 65 of the Tunisian Constitution establishes the principle of the independence of the judiciary, while the Act of 1967 establishing the statutes of the judiciary ordains them to render justice impartially, without consideration of persons or interests. Numerous laws have subsequently aimed at strengthening this principle and consolidating the rights of defence. These include, in particular, the Act of 22 November 1993 reducing the duration of pre-trial

detention and the Act of 2 August 1999 reducing the duration of police custody and strengthening the related safeguards. A bill currently before the Chamber of Deputies also provides for the establishment of the office of visiting magistrate.

62. The Special Rapporteur wishes to encourage the initiatives taken by the Government but, in the light of the information he received during the mission, he cannot but observe that the scope of the reforms must be seen in context. In actual fact, many political trials have reportedly taken place with no regard for the rights of defence and due legal process. The Special Rapporteur heard allegations that the judiciary is not entirely untouched by influence exerted by the executive branch. In addition, the task of lawyers specializing in the defence of human rights is made increasingly difficult by the restrictions imposed on their activities in the defence of their clients, for example, the difficulty in obtaining copies of judicial documents and the practice of granting visiting permits to lawyers but refusing to recognize them on the day they visit prisons.

63. But the Special Rapporteur is more particularly concerned about the alleged harassment of certain lawyers. The case of Ms. Radhia Nasraoui, a well-known lawyer specializing in the defence of human rights, is one of the most significant: she has been regularly harassed both in her professional life (ransacking of her office, restrictions on freedom of movement, pressure on her clients) and in her family life (attempted abduction of her younger daughter). Ms. Nasraoui was also reported to have been accused, in March 1998, of acts of "terrorism" and "aiding the formation of an association advocating hatred" (the Tunisian Workers' Communist Party, which has been banned). These charges are identical to those levelled against her 15 clients - mostly left-wing students - who were arrested in February 1998 following peaceful demonstrations. Ms. Nasraoui lodged a complaint of torture, and requested the authorities to order a medical examination of her clients and to initiate an inquiry. Following a trial which was described as a "parody of justice" by lawyers and international observers who were present, Ms. Nasraoui was given a suspended sentence of six months' imprisonment while the students were sentenced to imprisonment for periods ranging from 17 months to 4 years.

64. Another case notified to the Special Rapporteur was that of Najib Hosni, an eminent lawyer specializing in the defence of human rights, who was arrested in 1994 and detained without trial for more than 10 months, tortured, sentenced to 8 years' imprisonment for "acts of terrorism" and then acquitted in 1996. He is still being harassed (his passport has been confiscated, as have those of 25 other lawyers) and he is banned from pursuing his profession.

65. The Special Rapporteur considers that the harassment of lawyers and impeding their freedom to pursue their profession constitute violations of the principle of equity of the judicial system and of the right of the accused to a fair trial. He considers it useful to mention these cases of judicial dysfunction because they often concern lawyers defending persons who have been prosecuted for having expressed divergent opinions. Such transgressions of human rights require informed and careful examination of the facts and merit correctives lest they lead to dilution of confidence in the judicial system and the due process of law.

3. Violations of freedom of association and any form of expression of divergent opinions

66. The Special Rapporteur noted, in the course of his mission, that freedom of association, and also any other form of expression of divergent opinions, were subject to constraints designed to curtail if not suppress these freedoms. These constraints take various forms of pressure on organizations and, what is much more serious, on individuals themselves.

67. Firstly, the Special Rapporteur was informed that it is virtually impossible to set up new independent associations. The number of 7,000 NGOs mentioned by the authorities very largely represents associations close to the Government or set up by it. The example of the National Council for Freedoms in Tunisia (CNLT) was mentioned to the Special Rapporteur. The CNLT was set up in December 1998 but has apparently not received the approval of the Ministry of the Interior because of failure to comply with the Associations Act of 7 November 1959. This Act is in fact the subject of strong criticism since it grants excessive powers to the Minister of the Interior and because of the harshness of the penalties it lays down for any person found guilty of membership of an illegally established association. In addition, the Special Rapporteur's attention was drawn to the fact that, since the application for approval to establish the CNLT, members of that association have regularly been harassed, notably the founder members Mr. Moncef Marzouki and Mr. Omar Mistiri, who have frequently been summoned to appear before an examining magistrate. Judicial proceedings have reportedly been instituted against them for having, inter alia, continued to issue press releases on behalf of the CNLT expressing their concern at the increasing limitations on freedom of opinion and expression in Tunisia.

68. In addition, the Special Rapporteur was informed that the everyday activity of the existing independent organizations is by no means facilitated by the Tunisian authorities. Thus, the offices and, generally speaking, the activities of the Tunisian Human Rights League, the Tunisian Association of Democratic Women and the Tunisian section of Amnesty International are reportedly under constant police surveillance. The press releases of these NGOs are virtually never published in the national press and, on the few occasions when they are published, they are usually truncated and their political substance is excised. Similarly, the leaders and members of the associations are allegedly harassed in an attempt to make them give up their activities, and those victims who contact these various associations are often harassed by the security forces.

69. According to the sources, the confiscation of correspondence, the tapping of telephone conversations and the interception of faxes constitute important impediments to the exercise of the everyday activities of these NGOs. The confidentiality of information transmitted by victims of violations and also the right to protection of privacy, which is guaranteed by article 17 of the International Covenant on Civil and Political Rights, are constantly infringed. The Special Rapporteur thus learned of the existence of a Postal Services Code promulgated by a law enacted by the National Assembly in June 1988. Articles 20 and 21 of this Code provide for the seizure of any correspondence liable to jeopardize public order and national security, "seizures [being] reported to the Public Prosecutor for the purpose of the initiation of judicial proceedings where appropriate". Certain mail would appear to be frequently intercepted and confiscated.

70. Pressure is apparently exerted not only against the structure and very activities of associations, but also against their members and, generally speaking, against any person wishing

to express what is in any way a divergent opinion. The prime targets are political opponents and human rights defenders, followed by lawyers, journalists, writers, poets, teachers, etc. The copious testimony submitted to the Special Rapporteur referred to various methods of harassment and intimidation. Apart from the imprisonment of such persons and some of their friends or relatives for acts of "terrorism" or some other criminal offence, the Special Rapporteur, on the basis of allegations received, learned of a whole range of techniques which are in most cases beyond the law: loss of job, confiscation of passport, ransacking of office or home, interception of mail, telephone/fax lines and Internet sites monitored or blocked, cars stolen or damaged. Some victims are kept under constant surveillance by plain-clothes police officers and are prevented from organizing or taking part in meetings. Others are subjected to campaigns of defamation, which take the form of insulting and humiliating articles in the Tunisian media (particularly the *El-Hadath* newspaper), anonymous tracts such as those published in France and addressed to Tunisian exiles,[2] and doctored videotapes or photographs showing the victims in compromising situations. Even political opponents living in exile in France were reportedly the victims, in 1997 and 1998, of anonymous tracts containing humiliating and insulting allegations about them. This harassment increasingly takes the form of "collective punishment" since attacks are made on the immediate family or even the neighbours of persons suspected of holding dissident opinions. The existence of such practices was mentioned by the Special Rapporteur in a conversation with the Minister of Justice, who denied the existence of a parallel system beyond the limits of the law. However, the Special Rapporteur was informed that the victims of violations of this kind regularly lodge complaints with the competent courts.

71. In addition it emerged from a discussion which the Special Rapporteur had with the President of the High-Level Committee on Human Rights and Fundamental Freedoms, that this body, which is authorized to receive complaints from individuals, only very rarely has to deal with complaints of violations such as those mentioned above. The credibility of this body should be strengthened.

72. In the course of his visit the Special Rapporteur had the opportunity to hold several talks with Mr. Khemais Ksila, the Vice-President of the Tunisian Human Rights League, whose case had been taken up by the Working Group on Arbitrary Detention and the Commission on Human Rights. The Special Rapporteur himself had alerted the Tunisian Government to Mr. Ksila's situation in a letter of 16 October 1997. Mr. Ksila was arrested on 29 September 1997, and sentenced on 11 February 1998 to three years' imprisonment and a fine of 1,200 dinars for having published a press release denouncing violations of human rights in Tunisia and publicly announcing his decision to begin a hunger strike in response to the harassment and threats to which he had been subjected because of his activity as a human rights defender. The Special Rapporteur welcomes Mr. Ksila's conditional release, which was ordered on 22 October 1999, and hopes that his freedoms will no longer be tempered with.

73. The Special Rapporteur is convinced of the importance of NGOs in any society. Any decline in their number or their activities tends to heighten the control imposed on a society. Realism compels one to see signs of strain in this regard.

74. In the area of trade union freedom, the Special Rapporteur is concerned at the fact that there is only one union the General Union of Tunisian Workers (UGTT), even though union

legislation is fairly liberal. He fears that a single confederation representing all Tunisian workers may not genuinely reflect plurality of views. His attention was also drawn to the fact that regulations stipulate that all strikes must be organized by the UGTT, a fact which considerably limits the right to strike and trade union freedom. The Special Rapporteur was also informed that, on 10 May 1999, 10 former union leaders were reportedly arrested by plain-clothes members of the security forces and held for 48 hours for having published a petition protesting against irregularities in the conduct of the most recent UGTT Congress in April 1999.

75. In addition, intellectuals, academics, scientists and artists are also said to require much greater freedom in order to pursue their activities. Thus, the Special Rapporteur's attention was drawn to the fact that some ministries (higher education, tourism) have issued circulars requiring a list of participants and a copy of statements to be submitted to the Ministry of the Interior in advance of any meeting or gathering of any kind. He considers that measures of this type are excessive and totally inhibit the creative spirit needed for the development of a democratic society.

C. The situation of women

76. Tunisia stands out as a true pioneer in promoting women's rights in the Arab countries. Immediately following independence in 1956, the Personal Status Code abolished polygamy, prohibited forced marriages, introduced legal divorce proceedings and put an end to the unilateral repudiation of marriage. Various instruments dealing with women's rights have been constantly revised in order to promote greater equality between men and women, and a Ministry of Women's and Family Affairs was established to strengthen the role and influence of women in Tunisian society. Moreover, specific measures have been taken to promote the education of women and a government institute, namely, the Centre de Recherches, d'Etudes, de Documentation et d'Information sur la Femme (CREDIF) was set up in 1991. The Special Rapporteur had occasion to participate in a round table organized by CREDIF, which gave him an idea of the extent to which the activities of the country's very large number of women's associations and of the Tunisian Government were being focused on more effective promotion of women's rights. Prudently devised initiatives in this regard need to be applauded: they are bound to generate forces that could be an incentive for furthering gender equality.

77. As regards the participation of women in politics, the Special Rapporteur noted that women have started making modest headway within decision-making bodies. According to CREDIF, the present Government comprises 4 women ministers, there are also 3 women ambassadors and 21 women deputies. CREDIF, which is responsible for the annual preparation of a report on the situation of Tunisian women designed to provide the Government with information on measures that should be taken, has also included the topic of women in the media in its programme of activities in order to train journalists in ways of handling subjects affecting women. And it has made a study of the content of newspapers and magazines in Tunisia in relation to Tunisian women, concluding that they receive little coverage: of the seven daily newspapers analysed,[3] an average of only 1.66 per cent of their total volume is devoted to women's questions.

78. Considerable progress is admittedly being made, but the Special Rapporteur considers that women in public life need to be further empowered and their ranks consolidated. For

example, according to information he received, it appears that some associations are not supported by the Government and therefore lack recognition of their activities or are even hampered in their work. One of these is the Tunisian Association of Democratic Women, an independent NGO which is active in curbing discrimination and dealing with problems encountered by women. It provides information to women victims of violence, for whom it has established a guidance centre. The Special Rapporteur learned that virtually none of the press releases issued by this Association are apparently published in the Tunisian media and that none of its activities, such as information campaigns on violence against women, have been publicized in any way. This is all the more regrettable because the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of 14 May 1999, expressed concern at "the scarcity of official data on family violence, even though rare in Tunisia".

79. Many cases have also been reported of women being harassed in their private life, resulting in violations of fundamental standards of human decency. On this question, the Special Rapporteur would refer to the 1999 report of Rhadika Coomaraswamy, Special Rapporteur on violence against women, which condemns such practices (E/CN.4/1999/68/Add.1, paras. 42-48, of 11 January 1999). In a joint communication transmitted on 30 September 1998, Ms. Coomaraswamy and Mr. Nigel Rodley, the Special Rapporteur on torture, informed the Tunisian Government that, according to information they received between 1993 and 1998, wives and other relatives of opponents, in detention or in exile, had been subjected to acts of torture and other inhuman or degrading treatment in their homes, police stations or national guard posts or on Ministry of the Interior premises. This, in the view of the Special Rapporteur, is incompatible with the stated enlightened aspiration of the State. The State has to develop into a broad-based progressive modern society, taking into account that gender equality remains a pre-eminent requirement of a good and just society. The State must accelerate its efforts to establish a new cultural paradigm relating to improving the status of women.

III. CONCLUSIONS

80. The Special Rapporteur welcomes the Tunisian Government's stated commitment to democracy, the rule of law and human rights. In particular, he recognizes that Tunisia has adopted progressive domestic legislation, subscribed to most international conventions, and created through such legislation and on its territory machinery designed to ensure their application. Yet despite this determination to promote and protect human rights, which is also reflected in official statements, there still exists a chasm between declaration of intent and reality. The Special Rapporteur endorses the official position in favour of a global approach and recognizes that it takes time and concerted effort to change the cultural patterns of a society, he nevertheless wishes to call on the Government to narrow the gap between declarations, law and practices in respect of the protection of human rights. He would like Tunisia to emerge as a role-model for countries in the area, for which it is the most qualified.

81. The Special Rapporteur wishes to recall that freedom of opinion and expression constitutes the basis of all the freedoms on which democracy rests. No nation can make sustainable progress if freedom of expression is not guaranteed to all its citizens and protected by the law. Tunisia has made considerable progress recently, but it still has a long way to go to take full advantage of its favourable economic context and adopt measures designed to strengthen the protection of human rights and, in particular, the right to freedom of opinion and expression.

82. The Special Rapporteur is particularly concerned at allegations regarding the treatment meted out to the families and kin of the people under arrest, in particular the women among them. He nevertheless welcomes the progressive legislation adopted on women's rights, but notes that these unquestionable achievements can be protected and taken even further only through joint action on the part of the authorities and independent and innovative associations. Indeed, the participation of women in public life implies not only their equality before the law but also their right to express different views.

83. On the subject of the judiciary, the Special Rapporteur warmly endorses the ongoing reforms designed to strengthen the right of defence. However, the judiciary should exercise its total independence from the executive arm of government lest people perceive it as an instrument restricting rights, particularly the right to freedom of opinion and expression.

84. The Special Rapporteur is concerned at the State's control of the national radio and television broadcasting system, and the major dailies. In this connection, the obstacles encountered by the media in trying to provide the Tunisian public with a different source of information should be eliminated. He would note that the effective exercise of the Tunisian public's right to receive comprehensive and reliable information should not be restricted, and that Tunisian people should have the unrestricted right to receive all information and ideas regardless of origin. He regrets in particular the obstacles restricting the use of the Internet, and also those curtailing the free circulation of information from abroad through the press or radio.

85. In this context, the Special Rapporteur would refer to article 19 of the International Covenant on Civil and Political Rights, which states that everyone has the right not only to impart information of all kinds, but also to receive information regardless of frontiers. The free circulation of information and exchanges of ideas through the media and other public forums are indispensable to the proper functioning of a democracy.

86. The Special Rapporteur acknowledges the Tunisian Government's efforts to modernize the media and liberalize the right to information, in particular by the 1997 decision to do away with the Office of the State Secretary for Information. Yet such efforts are still inadequate in view of the censorship of the media and the fact that the habit of self-censorship has taken root in press organs and in the minds of journalists. The Special Rapporteur would emphasize that the main functions of the media - to inform, to inquire, to expose abuses and to instruct - which are of crucial importance for society, can be performed only by organs that are not subject to unnecessary constraints. The Government is therefore under an obligation not only to create favourable conditions enabling the media to play this role, but also to guarantee the complete independence of the media and particularly those financed by the State.

87. The Special Rapporteur notes with satisfaction the existence of several training institutes, such as the Press and Information Sciences Institute (IPSI) and the African Centre for the Advanced Training of Journalists and Communicators. He warmly endorses the organization of seminars for the training of media professionals, as is already being done with the help of UNESCO, the Tunisian Arab Institute of Human Rights and the Office of the High Commissioner for Human Rights at Geneva.

88. The Special Rapporteur would point out that that concentration of power does not go with the principle of freedom, and that democracy and the rule of law are vital to Tunisia's welfare. For this reason, resolute action must be taken to curb measures that stand in the way of this goal. The Special Rapporteur is convinced that the establishment of a frank dialogue with an opposition that is allowed to develop freely is essential for the promotion and protection of human rights. He therefore appeals for the guaranteed establishment of an open and responsible system which is of vital importance for the welfare of the country and its people. In this connection, he emphasizes the important role played by freedom of opinion, expression and information in consolidating democratic development and respect for human rights.

89. Lastly, the Special Rapporteur wishes to emphasize once again that the promotion and protection of the right to freedom of opinion and expression cannot be considered in isolation. They should rather be regarded as constituting a litmus test, since the erosion of these freedoms is often an indication of the general erosion of other human rights. The following recommendations are designed to strengthen and support the efforts made by the Government of Tunisia to translate its commitment to freedom of opinion and expression into reality.

IV. RECOMMENDATIONS

90. In the light of the observations and concerns presented in the previous sections, the Special Rapporteur wishes to submit the following recommendations to the Tunisian Government. Taking account of the frank and constructive exchanges of view that took place during his mission, the Special Rapporteur is convinced that these recommendations will be accepted in a positive spirit, reflecting a shared determination to strengthen the promotion and protection of the right to freedom of opinion and expression.

91. It should first of all be borne in mind that this is the first time a thematic rapporteur of the Commission on Human Rights has been authorized to visit Tunisia. The Special Rapporteur would therefore like to encourage the Tunisian Government in its determination to cooperate by recommending that it should consider in a positive light the requests of two other Commission rapporteurs to visit the country, namely, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture. The Government could thus take advantage of their competence in these two fields which, in the Special Rapporteur's view, merit particular attention.

92. The Special Rapporteur urges the Tunisian Government to strengthen the independence and autonomy of the existing human rights bodies, and particularly the High-Level Committee on Human Rights and Fundamental Freedoms, in order to bolster the confidence of the public and especially that of the victims of human rights violations. The need to establish a separate and autonomous human rights commission to act independently of any other State authority or ministry functioning as a part of the Government, could also be considered.

93. The Tunisian Government is strongly encouraged to adopt additional measures to ensure full protection of the right to freedom of opinion and expression. Such measures should consist of the revision and amendment of certain domestic laws, in particular those on the Press Code, political parties and associations.

(a) In accordance with the recommendations formulated in November 1994 by the United Nations Human Rights Committee, the Special Rapporteur urges the Government to amend the defamation provisions of the Press Code so as to make this offence no longer punishable by imprisonment and to redefine the concept of a press offence;

(b) The law on political parties should be reviewed with a view to promoting the establishment of new parties, thereby encouraging the development of true political pluralism. Thought should also be given to provisions facilitating parties' access to the media;

(c) The law on associations should be made more flexible in order to create an environment conducive to the development of civil society by facilitating the establishment of independent NGOs and legalizing those which operate clandestinely. Additional provisions should guarantee the independence and sound functioning of existing associations and professional bodies, in particular human rights and media associations (Association des Journalistes Tunisiens (AJT) and Association Tunisienne des Directeurs de Journaux (ATFD)).

94. The Special Rapporteur also urges the Tunisian Government to take all necessary steps to ratify the two Optional Protocols to the International Covenant on Civil and Political Rights, and to adopt a new law on information so as to facilitate the Tunisian citizen's access to information, and particularly information about representatives of the State and their official activities.

95. The Tunisian Government is further urged to consider the establishment of two new bodies, namely:

(a) A press council, independent of State bodies and the judiciary, to which journalists as well as the public could submit complaints, request advice and obtain redress. This council should consist of media professionals, appointed by independent associations specialized in this field, and representatives of the public at large;

(b) An independent body to deal with subjects of interest to the media, such as the ownership of newspapers, the price of newsprint and printing materials, the equitable distribution of publicity material and support for newspapers in difficulty.

96. The Special Rapporteur strongly urges the Tunisian Government to take all necessary steps to guarantee the independence of the media, such as by protecting them against any interference on the part of the party in power. The first step could consist of the establishment of press agencies in addition to the Agence Tunis Afrique Presse (TAP) in order to diversify sources of information. Action should also be taken to strengthen the autonomy of the Tunisian Radio and Television Broadcasting Establishment (ERTT), so as to grant it a measure of independence in relation to the Government and to encourage the establishment of private rival television stations.

97. As regards the flow of information from other countries, the Special Rapporteur urges the Tunisian Government to do away with restrictions on foreign newspapers and on the broadcasting of foreign programmes. Similarly, the Government is invited to remove all restrictions on new technologies, in particular the Internet.

98. The Special Rapporteur recommends that the Tunisian Government should remove all obstacles to intellectual and artistic creativity by abolishing all direct or indirect forms of censorship likely to have an inhibiting effect. In this connection he would recall that true pluralism is based on freedom of intellectual and artistic expression, and on the existence of counterbalances such as political parties, trade unions, associations and independent information organs.

99. The Tunisian Government is strongly urged to review the cases of persons detained for exercising their right to freedom of opinion and expression, with a view to their release. Recent cases of the release of hundreds of detainees are extremely encouraging.

100. The Special Rapporteur further urges the Tunisian Government to put an end to the alleged intimidation and harassment of persons seeking to exercise their right to freedom of opinion and expression, and in particular human rights defenders, political opponents, trade unionists, lawyers and journalists. Steps should be taken to investigate any acts of violence and those responsible should be brought to justice.

101. The Tunisian Government is also requested to conduct, through an independent body, an inquiry into the alleged cases of harassment of wives and kin of detained persons and persons suspected of unlawful political activities. The development of independent women's organizations should be encouraged and the normal functioning of existing independent organizations strengthened.

102. The Special Rapporteur contends that by demonstrating its firm commitment to moral values and its concern for human rights, a country gains the approbation of mankind and outflanks the antisocial forces within the country itself. A forward-looking Tunisia firmly protecting and encouraging human rights would acquire the moral stature to influence other countries in the area.

Notes

[1] An Arabic version of the *Human Rights Monitor*, published by the International Human Rights Service, which assesses the various activities of the United Nations in the field of human rights.

[2] "The masks", in Arabic and French, and the "News of the bankrupt" (Akhbar El Mouflicine), in Arabic.

[3] Four were in Arabic: (*Essabah*, *Essahafa*, *El Horriya*, *Errai El Am* (which has ceased publication)) and three in French (*La Presse*, *Le Renouveau*, *Le Temps*).

Annex

Persons with whom the Special Rapporteur met during his visit

Tunisian Government

His Excellency Mr. Habib Ban Yahia, Minister for Foreign Affairs

His Excellency Mr. Bechir Tekkari, Minister of Justice

His Excellency Mr. Abdallah Kallel, Minister of the Interior

His Excellency Mr. Dali Jazy, Minister of State to the Prime Minister responsible for human rights, communication and relations with Parliament

Mr. Fethi Abdelnadher, President of the Constitutional Council

Mr. Mohammed Lessir, Director of the Human Rights Division, Ministry of Foreign Affairs

Mr. Samir Koubaa, Deputy Director, Ministry of Foreign Affairs

Mr. Mohamed Habib, President of the Human Rights Unit, Ministry of Justice

Government institutions

Mr. Rachid Driss, Chairman of the High-Level Committee on Human Rights and Fundamental Freedoms

Mrs. Boutheina Bribaâ, Centre de Recherches, d'Etudes, de Documentation et d'Information sur la Femme (CREDIF)

Mr. Oueslati Brahim, Director of the Young Persons' Information Bureau, Ministry of Youth and Children

Mr. Mounir Bouraoui, Official Representative of the National Solidarity Fund

Professionals from information sectors

Mr. Ridha Methnini, High-Level Communications Council

Press and Information Sciences Institute (IPSI)

Mr. Mohammed Ben Ezzeddine, Editor of *La Presse de Tunisie* newspaper

Mr. Tijani Haddad, Founding Editor, *Tunisia News*

Association of Tunisian Journalists

Tunisian Association of Newspaper Editors

Non-governmental organizations

Tunisian Human Rights League

Tunisian Association of Democratic Women

Amnesty International, Tunisian Section

National Council of Freedoms in Tunisia

Association for the Defence of Tunisians Abroad

Tunisian Association of Mothers

Avocats sans Frontières

Jeunes Médecins sans Frontières

Others

Ismail Boulahia, Social Democrats' Movement

Arab Institute of Human Rights